

12 KAR 3:039. Nutritional adequacy.

RELATES TO: KRS 250.501, 250.521, 15 U.S.C. 1451-1461

STATUTORY AUTHORITY: KRS 250.521(2)(e), (f), 250.571

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631. KRS 250.521 requires that pet foods and specialty pet foods be labeled and establishes the information that shall be stated on the label. This administrative regulation establishes a uniform format for establishing nutritional adequacy in labeling information for pet foods and specialty pet foods and delineates criteria for product claims.

Section 1. The label of a pet food or specialty pet food that is intended for all life stages and sizes of the pet or specialty pet may include an unqualified claim, directly or indirectly, such as "complete and balanced," "perfect," "scientific," or "100% nutritious" if at least one (1) of the following apply:

- (1) The product complies with the nutrient requirements for all life stages and sizes established by an AAFCO-recognized nutrient profile;
- (2) The product complies with the criteria for all life stages as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocols; or
- (3) The product is a member of a product family that is nutritionally similar to a lead product that contains a combination of ingredients that has been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by AAFCO for all life stages, if:
 - (a) The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO;
 - (b) The family product complies with the criteria for all life stages; and
 - (c) Under circumstances of reasonable doubt, the director requires the manufacturer to perform additional testing of the family product and substantiates the claim of nutritional adequacy.

Section 2. The label of a pet food or specialty pet food that is intended for a limited purpose (such as size of dog) or a specific life stage, but not for all life stages and sizes, may include a qualified claim such as "complete and balanced," "perfect," "scientific," or "100% nutritious" if the product and claim meet all of the following:

- (1) The claim is qualified with a statement of the limited purpose of specific life stage for which the product is intended or suitable, for example, "complete and balanced for puppies (or kittens)." The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style, and color print; and
- (2) The product complies with at least one (1) of the following:
 - (a) The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-recognized nutrient profile;
 - (b) The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol; or
 - (c) The requirements of a product family that is nutritionally similar to a lead product that contains a combination of ingredients that, if fed for the limited purpose, will satisfy the nutrient requirements for the limited purpose and has had its capabilities in this regard demonstrated by adequate testing, and if:
 1. The nutritional similarity of the family product can be substantiated according to the Pro-

cedures for Establishing Pet Food Product Families developed by AAFCO;

2. The family product meets the criteria for the limited purpose; and

3. Under circumstances of reasonable doubt, the director requires the manufacturer to perform additional testing for the family product and substantiates the claim of nutritional adequacy.

Section 3. Dog and cat food labels shall include a statement of nutritional adequacy or purpose of the product except if the dog or cat food is clearly and conspicuously identified on the principal display panel as "snack," "treat," or "supplement." The statement shall consist of one (1) of the following:

(1) A claim that the dog or cat food complies with the requirements of one (1) or more of the recognized categories of nutritional adequacy: gestation or lactation, growth, maintenance, and all life stages. The claim shall be stated verbatim as one (1) of the following:

(a) "(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for _____. (The blank shall be completed by using the stage or stages of the pet's life, such as gestation or lactation, growth, maintenance, or the words "All Life Stages."). For a dog food, if the blank includes the words "growth" or "all life stages," one (1) of the following phrases shall also be added verbatim to the end of the claim:

1. "including growth of large size dogs (70 lb. or more as an adult)" if the product has been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs; or

2. "except for growth of large size dogs (70 lb. or more as an adult)" if the product has not been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs;

(b) "Animal feeding tests using AAFCO procedures substantiate that (Name of Product) provides complete and balanced nutrition for _____. (The blank shall be completed by using the stage or stages of the pet's life tested, such as gestation/lactation, growth, maintenance, or the words "all life stages."); or

(c) "(Name of Product) provides complete and balanced nutrition for _____. (The blank shall be completed by using the stage or stages of the pet's life, such as gestation and lactation, growth, maintenance, or the words "all life stages") and is comparable in nutritional adequacy to a product that has been substantiated using AAFCO feeding test.";

(2) A nutritional or dietary claim for purposes other than those established in Sections 1 and 2 of this administrative regulation if the claim is scientifically substantiated; or

(3) The statement: "This product is intended for intermittent or supplemental feeding only," if a product does not comply with the requirements of Sections 1 and 2 of this administrative regulation or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.

Section 4. A product intended for use by, or under the supervision or direction of a veterinarian shall make a statement in accordance with Section 3(1) or (3) of this administrative regulation.

Section 5. A signed affidavit attesting that the product complies with the requirements of Sections 1 or 2(2) of this administrative regulation shall be submitted to the director upon request.

Section 6. If the nutrient content of a product does not comply with those nutrient requirements established by an AAFCO-recognized nutrient profile, or if no requirement has been es-

established by an AAFCO recognized nutritional authority for the life stages of the intended species, the claimed nutritional adequacy or purpose of the product shall be scientifically substantiated.

Section 7. The following AAFCO-recognized nutritional authority, nutrient profile, or animal feeding protocol shall be acceptable as the basis for a claim of nutritional adequacy:

(1) As an AAFCO-recognized nutrient profile or nutritional authority:

(a) For dogs, the AAFCO Dog Nutrient Profiles;

(b) For cats, the AAFCO Cat Nutrient Profiles; and

(c) For specialty pets, the nutrient recommendation approved by the Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences, if this nutrient recommendation is recognized only for the specific specialty pet of which the profile is intended; and

(2) As an AAFCO-recognized animal feeding protocol, the AAFCO Dog and Cat Food Feeding Protocols.

Section 8. Incorporation by Reference. (1) "2018 Official Publication", (2018 Edition), Association of American Feed Control Officials, is incorporated by reference.

(2) This material may be inspected, copied, or obtained. Subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m. (45 Ky.R. 210, 636; eff. 9-28-2018.)